California's Legislative Approach To Regulating The Sharing Economy: Regroup

Insights
3.07.17

The month of February and its immediate aftermath is always an exciting time for California legislation. That's the month when legislators submit all of the new bills that will be sought for passage in the state legislature, and gives a clear window into what could be coming down the turnpike in new laws in the years to come. Some bills are proposed time and time again, only to be lost in committee or vetoed, but still showing up again the following year. Others disappear entirely. Some pass or fail, and cause shockwaves in the legislative landscape.

In California, organized labor generally promulgates and sponsors most labor and employment bills, and the worker movement was dealt a huge blow last year when AB 1727 did not become law. That bill sought to permit sharing economy workers to organize and unionize. This bill would have been a huge victory for organized labor in getting embedded within the new digital economy. But, for a variety of reasons – including the unknown effect that such union activity would have on a burgeoning source of California revenue – that bill was not successful.

Coming off the heels of that defeat, organized labor seems to be regrouping this year. Nothing overly dramatic was proposed for the sharing economy. In fact only two bills target businesses in this field.

The first bill, AB 1099, would require any company permitting patrons of its services to pay via credit card through their smartphone to provide an option to tip. Uber comes to mind, since the ridesharing giant doesn't include tipping, one of its hallmark features. Many other sharing economy services, such as Postmates, include a tipping function already, so for them the bill will have no effect. While certainly not groundbreaking, California is taking this small step in mandating more direct payments from the consumer to the sharing economy professional. In the opinion of this author, this is a baby step, and seems to specifically target Uber.

The second bill is more interesting. AB 1461 targets food delivery enterprises, like Sprig or Blue Apron, but possibly also Uber eats, Postmates, GrubHub, and more. The bill mandates that employees in these enterprises involved in the preparation, storage, or service of food (which could possibly include those that deliver it) will need to apply for and obtain a food handler card. This bill is stronger in the sense that it creates a regulatory control over almost all of the employees of these shared economy enterprises, and it shouldn't be ignored that the bill is sponsored by the United

Food and Commercial Worker's Union. It aims to erect a regulatory hurdle for food delivery services that it perceives as a threat to the traditional grocery store employees that the UFCW represents.

In sum, 2017 does not appear to be a dramatic year for legislation in California affecting the sharing economy. But organized labor is very influential in the California legislature, and will continue to sponsor and strategize on new bills in the years to come. We will monitor both of these bills and will update you accordingly.

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